



CLERK, U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed February 11, 2022

  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>

Reorganized Debtor.

MARC S. KIRSCHNER, AS LITIGATION TRUSTEE  
OF THE LITIGATION SUB-TRUST,

Plaintiff,

v.

JAMES D. DONDERO; MARK A. OKADA; SCOTT  
ELLINGTON; ISAAC LEVENTON; GRANT JAMES  
SCOTT III; FRANK WATERHOUSE; STRAND  
ADVISORS, INC.; NEXPOINT ADVISORS, L.P.;  
HIGHLAND CAPITAL MANAGEMENT FUND  
ADVISORS, L.P.; DUGABOY INVESTMENT TRUST  
AND NANCY DONDERO, AS TRUSTEE OF  
DUGABOY INVESTMENT TRUST; GET GOOD  
TRUST AND GRANT JAMES SCOTT III, AS

Chapter 11

Case No. 19-34054-sgj11

Adv. Pro. No. 21-03076-sgj

<sup>1</sup> The last four digits of the Reorganized Debtor's taxpayer identification number are (8357). The Reorganized Debtor is a Delaware limited partnership. The Reorganized Debtor's headquarters and service address are 100 Crescent Court, Suite 1850, Dallas, TX 75201.

TRUSTEE OF GET GOOD TRUST; HUNTER MOUNTAIN INVESTMENT TRUST; MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #1 AND LAWRENCE TONOMURA AS TRUSTEE OF MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #1; MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2 AND LAWRENCE TONOMURA IN HIS CAPACITY AS TRUSTEE OF MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2; CLO HOLDCO, LTD.; CHARITABLE DAF HOLDCO, LTD.; CHARITABLE DAF FUND, LP.; HIGHLAND DALLAS FOUNDATION; RAND PE FUND I, LP, SERIES 1; MASSAND CAPITAL, LLC; MASSAND CAPITAL, INC.; SAS ASSET RECOVERY, LTD.; AND CPCM, LLC,

Defendants.

**ORDER APPROVING STIPULATION REGARDING FORMER EMPLOYEE DEFENDANTS’ MOTION TO EXPEDITE MOTION TO STAY ADVERSARY PROCEEDING**

Upon consideration of the *Stipulation Regarding Former Employee Defendants’ Motion to Expedite Motion to Stay Adversary Proceeding* [Docket No. 60] (the “Stipulation”), by and among Marc S. Kirschner, as Litigation Trustee of the Litigation Sub-Trust (the “Litigation Trustee”), and the Former Employee Defendants<sup>2</sup> (together with the Litigation Trustee, the “Parties”), it is

**HEREBY ORDERED THAT:**

1. This Stipulation, a copy of which is attached hereto as Exhibit A, is **APPROVED**.
2. The Motion to Expedite is resolved.
3. The deadline for the Trustee to file a response to the Stay Motion shall be February 8, 2022.

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<sup>2</sup> Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Stipulation.

4. A hearing for the Stay Motion shall be held by this Court on March 3, 2022 at 9:30 a.m. Central Time, as reflected in the Former Employee Defendants' notice of hearing [Docket No. 75].

5. The Stipulation shall become effective immediately upon entry of this Order.

6. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of the Stipulation and this Order.

###End of Order###

# EXHIBIT A

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>

Reorganized Debtor.

Chapter 11

Case No. 19-34054-sgj11

MARC S. KIRSCHNER, AS LITIGATION TRUSTEE  
OF THE LITIGATION SUB-TRUST,

Plaintiff,

v.

JAMES D. DONDERO; MARK A. OKADA; SCOTT  
ELLINGTON; ISAAC LEVENTON; GRANT JAMES  
SCOTT III; FRANK WATERHOUSE; STRAND  
ADVISORS, INC.; NEXPOINT ADVISORS, L.P.;  
HIGHLAND CAPITAL MANAGEMENT FUND  
ADVISORS, L.P.; DUGABOY INVESTMENT TRUST  
AND NANCY DONDERO, AS TRUSTEE OF  
DUGABOY INVESTMENT TRUST; GET GOOD  
TRUST AND GRANT JAMES SCOTT III, AS  
TRUSTEE OF GET GOOD TRUST; HUNTER  
MOUNTAIN INVESTMENT TRUST; MARK &  
PAMELA OKADA FAMILY TRUST – EXEMPT  
TRUST #1 AND LAWRENCE TONOMURA AS  
TRUSTEE OF MARK & PAMELA OKADA FAMILY  
TRUST – EXEMPT TRUST #1; MARK & PAMELA  
OKADA FAMILY TRUST – EXEMPT TRUST #2  
AND LAWRENCE TONOMURA IN HIS CAPACITY  
AS TRUSTEE OF MARK & PAMELA OKADA  
FAMILY TRUST – EXEMPT TRUST #2; CLO  
HOLDCO, LTD.; CHARITABLE DAF HOLDCO,  
LTD.; CHARITABLE DAF FUND, LP.; HIGHLAND  
DALLAS FOUNDATION; RAND PE FUND I, LP,  
SERIES 1; MASSAND CAPITAL, LLC; MASSAND  
CAPITAL, INC.; SAS ASSET RECOVERY, LTD.;  
AND CPCM, LLC,

Defendants.

Adv. Pro. No. 21-03076-sgj

STIPULATION

<sup>1</sup> The last four digits of the Reorganized Debtor's taxpayer identification number are (8357). The Reorganized Debtor is a Delaware limited partnership. The Reorganized Debtor's headquarters and service address are 100 Crescent Court, Suite 1850, Dallas, TX 75201.



**STIPULATION REGARDING FORMER EMPLOYEE DEFENDANTS' MOTION TO  
EXPEDITE MOTION TO STAY ADVERSARY PROCEEDING**

This stipulation (the “Stipulation”) is made and entered into, subject to Court approval, in the above-captioned adversary proceeding (the “Adversary Proceeding”) by and among Marc S. Kirschner, as Litigation Trustee of the Litigation Sub-Trust (the “Trustee”), and Scott Ellington, Isaac Leventon, Frank Waterhouse, and CPCM, LLC (the “Former Employee Defendants” and with the Trustee, the “Parties”), by and through their respective undersigned counsel.<sup>2</sup> In support of the Stipulation, the Parties respectfully state as follows:

WHEREAS, on October 16, 2019, Highland Capital Management, L.P. (“HCMLP”), filed a voluntary petition for relief under title 11 of the United States Code with the United States Bankruptcy Court for the District of Delaware. The case was subsequently transferred to the Bankruptcy Court for the Northern District of Texas, Dallas Division and captioned *In re Highland Capital Management, L.P.*, Case No. 19-34054-sgj11;

WHEREAS, on October 15, 2021, the Trustee commenced the Adversary Proceeding by filing a complaint against Defendants [Docket No. 1] (the “Complaint”);

WHEREAS, on January 18, 2022, the Former Employee Defendants filed the *Motion to Stay the Adversary Proceeding Pending Resolution of the Motion to Withdraw the Reference* [Docket No. 30] (the “Stay Motion”) and other Defendants joined in the Stay Motion. More specifically, the following Defendants have joined in the Stay Motion:

- a. Defendants Mark A. Okada The Mark & Pamela Okada Family Trust – Exempt Trust #1 and Lawrence Tonomura in his Capacity as Trustee, and the Mark & Pamela Okada Family Trust – Exempt Trust #2 and Lawrence Tonomura in his

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<sup>2</sup> This Stipulation is entered into without waiver of each Defendant’s right to challenge the basis for jurisdiction of the court in this case.

Capacity is Trustee (the "Okada Parties") joined in the Stay Motion on January 21, 2022, by filing their *Joinder of the Okada Parties to the Former Employee Defendants' Motion to Stay the Adversary Proceeding Pending Resolution of the Motion to Withdraw the Reference* [Docket No. 38];

- b. Defendants NexPoint Advisors LP ("NPA") and Highland Capital Management Fund Advisors LP ("HCMFA") joined in the Stay Motion on January 24, 2022, by filing their *Joinder of Defendants NexPoint Advisors LP and Highland Capital Management Fund Advisors LP to the Former Employee Defendants' Motion to Stay the Adversary Proceeding Pending Resolution of the Motion to Withdraw the Reference* [Docket No. 41];
- c. Defendants James Dondero, Dugaboy Investment Trust, Get Good Trust, and Strand Advisors, Inc. (collectively, the "Dondero Defendants") joined in the Stay Motion on January 26, 2022, by filing their *Joinder of the Dondero Defendants to the Former Employee Defendants' Motion to Stay the Adversary Proceeding* [Docket No. 49]; and
- d. Defendant Grant James Scott joined in the Stay Motion on January 26, 2022, by filing his *Joinder of Defendant Grant James Scott to the Former Employee Defendants' Motion to Stay the Adversary Proceeding Pending Resolution of the Motion to Withdraw the Reference* [Docket No. 52].

WHEREAS, on January 24, 2022, the Former Employee Defendants filed the *Motion to Expedite the Motion to Stay the Adversary Proceeding Pending Resolution of the Motion to Withdraw the Reference* [Docket No. 43] (the "Motion to Expedite") and other Defendants have agreed to a stipulated resolution of the Motion to Expedite, including the Defendants listed above,

as well as Defendants CLO HoldCo, Ltd., Charitable DAF HoldCo, Ltd., Charitable DAF Fund, L.P., and Highland Dallas Foundation (collectively, the "Charitable Defendants"), as confirmed by their signatures below;

**NOW, THEREFORE**, it is hereby stipulated and agreed, and upon approval by the Court it shall be **SO ORDERED**:

1. The Motion to Expedite is resolved.
2. The deadline for the Trustee to file a response to the Stay Motion shall be February 8, 2022.
3. The Parties request that the Court schedule a hearing on the Stay Motion at the Court's earliest convenience after February 8, 2022.



Dated: January 27, 2022

Respectfully submitted,

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